



California Regional Water Quality Control Board Los Angeles Region



Linda S. Adams
Agency Secretary

Recipient of the 2001 *Environmental Leadership Award* from Keep California Beautiful

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Mr. Nathaniel Cox
State of California
Department of Parks and Recreations
1925 Las Virgenes Road
Calabasas, CA 91302

WATER QUALITY CERTIFICATION FOR PROPOSED MALIBU CREEK FAILED CROSSING REMOVAL PROJECT (Corps' Project No. 2006-01027-AOA), MALIBU CREEK, MALIBU/CALABASAS, LOS ANGELES COUNTY (File No. 06-078)

Dear Mr. Cox:

Regional Board staff has reviewed your request on behalf of the State of California Department of Parks and Recreation (Applicant) for a Clean Water Act Section 401 Water Quality Certification for the above-referenced project. Your application was deemed complete on June 29, 2006.

I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003 - 0017 - DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges that have received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification.

The Applicant shall be liable civilly for any violations of this Certification in accordance with the California Water Code. This Certification does not eliminate the Applicant's responsibility to comply with any other applicable laws, requirements and/or permits.

Should you have questions concerning this Certification action, please contact Valerie Carrillo, Section 401 Program, at (213) 305-2250.

[Original Signed By] _____
Jonathan S. Bishop
Executive Office

August 31, 2006
Date

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

DISTRIBUTION LIST

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ATTACHMENT A

Project Information

File No. **06-078**

1. Applicant: State of California Department of Parks and Recreations
1925 Las Virgenes Rd
Calabasas, California 91302

Phone: (818) 880-0350 Fax: (818) 880-6165
2. Applicant's Agent: Nathaniel Cox
3. Project Name: Malibu Creek Failed Crossing Removal
4. Project Location: Malibu/Calabasas, Los Angeles County

Longitude: 118°43.280'; Latitude: 34°5.879'
Longitude: 118°43.294'; Latitude: 34°5.861'
Longitude: 118°43.326'; Latitude: 34°5.868'
Longitude: 118°43.301'; Latitude: 34°5.894'
Longitude: 118°43.278'; Latitude: 34°5.863'
Longitude: 118°43.317'; Latitude: 34°5.859'
Longitude: 118°43.324'; Latitude: 34°5.892'
Longitude: 118°43.286'; Latitude: 34°5.884'
5. Type of Project: Creek crossing removal
6. Project Description: *Purpose:*
The goal of this project is to remove a failed crossing in Malibu Creek, which is currently unusable for vehicular traffic. It is also contributing to downstream scour and increasing stream sediment load as well as acting as a fish migration barrier. This project will reduce sediment loading in Malibu Creek caused by channel and bank scour and erosion associated with this particular structure. The project is designed as a true restoration project and will not impact any native vegetation in the project area.

Description:
The creek crossing will be demolished and removed from the stream channel using an excavator fitted with hoe-ram attachment and a front-loader. Some minimal reshaping of the stream banks and channel will take place in order to restore the natural contours

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- after the failed structure is removed. Stabilization of the stream banks will occur with the planting of native riparian vegetation.
7. Federal Agency/Permit: U.S. Army Corps of Engineers
NWP No. 27 (Wetland and Riparian Restoration and Creation Activities)
NWP No. 33 (Temporary Construction, Access and Dewatering)

Permit No. 2006-01027-AOA
8. Other Required Regulatory Approvals: California Department of Fish and Game
Streambed Alteration Agreement
9. California Environmental Quality Act Compliance: The proposed project is Categorically Exempt from CEQA pursuant to the CEQA Guidelines, Section 15302 (Replacement or Reconstruction).
10. Receiving Water: Malibu Creek (Hydrologic Unit No. 404.22)
Malibu Lagoon (Hydrologic Unit No. 404.21)
11. Designated Beneficial Uses: MUN*, REC-1, REC-2, WARM, COLD, WILD, RARE, MIGR, SPWN, WET
*Conditional beneficial use
12. Impacted Waters of the United States: Federal jurisdictional wetlands: 0.0104 temporary acres and 34 temporary linear feet

Non-wetland waters (streambed): 0.1032 temporary acres and 75 temporary linear feet

Non-wetland waters (unvegetated streambed): 0.1367 temporary acres and 75 temporary linear feet
13. Dredge Volume: None
14. Related Projects The Applicant has not identified any related projects carried out in

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Implemented/to be
Implemented by the
Applicant:

the last 5 years or planned for implementation in the next 5 years.

15. Avoidance/
Minimization
Activities:

The Applicant has proposed to implement several Best Management Practices, including, but not limited to, the following:

- This project proposes to improve the water quality at this location by removing a structure that is currently causing significant water impairments.
- All activity will remain within the zone of influence.
- When possible, vegetation and stream contours within this zone will not be disturbed.
- The project will occur in the early fall when this portion of stream typically is dry.
- A diversion plan will be in place in case any surface flows are present.
- Stream banks that are exposed by removal of the structure will be stabilized with native riparian vegetation.
- Staging areas will be located on an existing dirt road and out of the stream channel.
- Dumpsters will be brought in and materials will be disposed of as they are removed to minimize any chance of concrete materials or dust from coming in contact with any surface waters.
- Coir or straw wattles will be used at any staging areas which drain toward surface waters to intercept any potential runoff from leaving the staging area.

16. Required
Compensatory
Mitigation:

The project activities consist of removing a creek crossing and restoration of the stream channel with native vegetation. The proposed project will result in water quality improvements and is restorative in nature; therefore the Regional Board will not require

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any additional compensatory mitigation.

See Attachment B Conditions of Certifications, Additional Conditions for modifications and additions to the above proposed compensatory mitigation.

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STANDARD CONDITIONS

Pursuant to §3860 of Title 23 of the California Code of Regulations (23 CCR), the following three standard conditions shall apply to this project:

1. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to §13330 of the California Water Code and Article 6 (commencing with 23 CCR §3867).
2. This Certification action is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR Subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR Chapter 28 and owed by the Applicant.

ADDITIONAL CONDITIONS

Pursuant to 23 CCR §3859(a), the Applicant shall comply with the following additional conditions:

1. The Applicant shall submit to this Regional Board copies of any other final permits and agreements required for this project, including, but not limited to, the U.S. Army Corps of Engineers' (ACOE) Section 404 Permit and the California Department of Fish and Game's (CDFG) Streambed Alteration Agreement. **These documents shall be submitted prior to any discharge to waters of the State.**
2. The Applicant shall adhere to the most stringent conditions indicated with either this certification, the CDFG's Streambed Alteration Agreement, or the ACOE Section 404 Permit.
3. The Applicant shall comply with all water quality objectives, prohibitions, and policies set forth in the *Water Quality Control Plan, Los Angeles Region (1994)*.
4. The Avoidance/Minimization activities proposed by the Applicant as described in Attachment A, No. 15, are incorporated as additional conditions herein.

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5. The Applicant and all contractors employed by the Applicant shall have copies of this Certification, the approved maintenance plan, and all other regulatory approvals for this project on site at all times and shall be familiar with all conditions set forth.
6. Fueling, lubrication, maintenance, operation, and storage of vehicles and equipment shall not result in a discharge or a threatened discharge to waters of the State. At no time shall the Applicant use any vehicle or equipment which leaks any substance that may impact water quality. Staging and storage areas for vehicles and equipment shall be located outside of waters of the State.
7. All excavation, construction, or maintenance activities shall follow best management practices to minimize impacts to water quality and beneficial uses. Dust control activities shall be conducted in such a manner that will not produce downstream runoff.
8. No construction material, spoils, debris, or any other substances associated with this project that may adversely impact water quality standards, shall be located in a manner which may result in a discharge or a threatened discharge to waters of the State. Designated spoil and waste areas shall be visually marked prior to any excavation and/or construction activity, and storage of the materials shall be confined to these areas.
9. All waste and/or dredged material removed shall be relocated to a legal point of disposal if applicable. A legal point of disposal is defined as one for which Waste Discharge Requirements have been established by a California Regional Water Quality Control Board, and is in full compliance therewith. Please contact Rodney Nelson, Land Disposal Unit, at (213) 620-6119 for further information.
10. The Applicant shall implement all necessary control measures to prevent the degradation of water quality from the proposed project in order to maintain compliance with the Basin Plan. The discharge shall meet all effluent limitations and toxic and effluent standards established to comply with the applicable water quality standards and other appropriate requirements, including the provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act. This Certification does not authorize the discharge by the applicant for any other activity than specifically described in the 404 Permit.
11. The discharge shall not: a) degrade surface water communities and populations including vertebrate, invertebrate, and plant species; b) promote the breeding of mosquitoes, gnats, black flies, midges, or other pests; c) alter the color, create visual contrast with the natural appearance, nor cause aesthetically undesirable discoloration of the receiving waters; d) cause formation of sludge deposits; or e) adversely affect any designated beneficial uses.

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12. The Applicant shall allow the Regional Board and its authorized representative entry to the premises, including all mitigation sites, to inspect and undertake any activity to determine compliance with this Certification, or as otherwise authorized by the California Water Code.
13. Application of pesticides must be supervised by a certified applicator and be in conformance with manufacturer's specifications for use. Compounds used must be appropriate to the target species and habitat. All pesticides directed toward aquatic species must be approved by the Regional Board. Pesticide utilization shall be in accordance with State Water Resources Control Board Water Quality Order Nos. 2004-0008-DWQ and 2004-0009-DWQ.
14. The Applicant shall not conduct any construction activities within waters of the State during a rainfall event. The Applicant shall maintain a **five-day (5-day) clear weather forecast** before conducting any operations within waters of the State.
15. Sediment removal at each phase shall not go beyond the extent as defined in the application packet.
16. The grading, stabilization and re-vegetation will be phased to limit the exposed or working face such that the graded area can be stabilized within 24 hours after the first prediction of rain during the 5-day forecast or within 24 hours after final grading of the phased area.
17. No activities shall involve wet excavations (i.e., no excavations shall occur below the seasonal high water table). A minimum **5-foot** buffer zone shall be maintained above the existing groundwater level. If construction or groundwater dewatering is proposed or anticipated, the Applicant shall file a **Report of Waste Discharge** to this Regional Board and obtain any necessary NPDES permits/Waste Discharge Requirements prior to discharging waste. Sufficient time should be allowed to obtain any such permits (generally 180 days). If groundwater is encountered without the benefit of appropriate permits, the Applicant shall cease all activities in the areas where groundwater is present, file a Report of Waste Discharge to this Regional Board, and obtain any necessary permits prior to discharging waste.
18. All project/maintenance activities not included in this Certification, and which may require a permit, must be reported to the Regional Board for appropriate permitting. Bank stabilization and grading, as well as any other ground disturbances, are subject to restoration and revegetation requirements, and may require additional Certification action.
19. All surface waters, including ponded waters, shall be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. If surface water diversions are anticipated, the Applicant shall develop and submit a **Surface Water Diversion Plan** (plan) to this Regional

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Board. The plan shall include the proposed method and duration of diversion activities, structure configuration, construction materials, equipment, erosion and sediment controls, and a map or drawing indicating the locations of diversion and discharge points. Contingency measures shall be a part of this plan to address various flow discharge rates. The plan shall be submitted prior to any surface water diversions. If surface flows are present, then upstream and downstream monitoring for the following shall be implemented:

- pH
- temperature
- dissolved oxygen
- turbidity
- total suspended solids(TSS)
- Downstream TSS shall be maintained at ambient levels
- Where natural turbidity is between 0 and 50 Nephelometric Turbidity Units (NTU), increases shall not exceed 20%. Where natural turbidity is greater than 50 NTU, increases shall not exceed 10%.

Analyses must be performed using approved US Environmental Protection Agency methods, where applicable. These constituents shall be monitored for on a daily basis during the first week of diversion and/or dewatering activities, and then on a weekly basis, thereafter, until the in-stream work is complete.

Results of the analyses shall be submitted to this Regional Board by the 15th day of each subsequent sampling month. A map or drawing indicating the locations of sampling points shall be included with each submittal. Diversion activities shall not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any such violations may result in corrective and/or enforcement actions, including increased monitoring and sample collection.

20. The Applicant shall restore the proposed **0.2503 acres** of TEMPORARY IMPACTS to waters of the United States and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the State. Restoration shall include grading of disturbed areas to pre-project contours and revegetation with native species. The Applicant shall implement all necessary Best Management Practices to control erosion and runoff from areas associated with this project.
21. The Applicant shall submit to this Regional Board a **Final Project Monitoring Report** by **January 1st** of the year following project completion. The report shall describe in detail all of the project/construction activities performed and all restoration and mitigation efforts; including percent survival by plant species and percent cover. This report shall include as a minimum, the following documentation:
 - (a) Color photo documentation of the pre- and post-project site conditions;

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- (b) Geographical Positioning System (GPS) coordinates in decimal-degrees format outlining the boundary of the project and mitigation areas;
 - (c) The overall status of project including a detailed schedule of work;
 - (d) Copies of all permits revised as required in Additional Condition 1;
 - (e) Water quality monitoring results (as required) compiled in an easy to interpret format;
 - (f) A certified Statement of “no net loss” of wetlands associated with this project;
 - (g) Discussion of any monitoring activities and exotic plant control efforts; and
 - (h) A certified Statement from the permittee or his/her representative that all conditions of this Certification have been met.
22. Prior to any subsequent maintenance activities within the project area, including clearing, maintenance by-hand, and/or the application of pesticides, the Applicant shall submit to this Regional Board a NOTIFICATION of any such activity. Notification shall include: (a) the proposed schedule; (b) a description of the existing condition/capacity; (c) the area of proposed temporary impact within waters of the State; (c) a description of any existing aquatic resources (e.g., wetland/riparian vegetation); and (d) any proposed compensatory mitigation. Notifications must be submitted a minimum of **three (3) weeks** prior to commencing work activities.
23. All applications, reports, or information submitted to the Regional Board shall be signed:
- (a) For corporations, by a principal executive officer at least of the level of vice president or his duly authorized representative, if such representative is responsible for the overall operation of the facility from which discharge originates.
 - (b) For a partnership, by a general partner.
 - (c) For a sole proprietorship, by the proprietor.
 - (d) For a municipal, State, or other public facility, by either a principal executive officer, ranking elected official, or other duly authorized employee.
24. Each and any report submitted in accordance with this Certification shall contain the following completed declaration:

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submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent recurrence of the noncompliance. The Executive Officer, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

30. *Enforcement:*

- (a) In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
- (b) In response to a suspected violation of any condition of this Certification, the State Water Resources Control Board (SWRCB) or Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the SWRCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- (c) In response to any violation of the conditions of this Certification, the SWRCB or RWQCB may add to or modify the conditions of this Certification as appropriate to ensure compliance.

31. This Certification shall expire **five (5) years** from date of this Certification. The Applicant shall submit a complete application prior to termination of this Certification if renewal is requested.